IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

MFA.No. 1261 of 2001(A)

OP(MV)1280/1997 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, THRISSUR
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APPELLANT/APPELLANTS
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1. **KUNJANI @ GRACY MATHEW,**
   W/O. LATE P.T. MATHEW,
   PANAKKAL HOUSE, GARDEN BAZAR,
   KUNNAMKULAM.

2. **DAVIS, S/O. LATE P.T. MATHEW,**
   -DO-

3. **EBBY, S/O. LATE P.T. MATHEW, -DO-**

4. **BEENA, D/O. LATE P.T. MATHEW, -DO-**

5. **REENA, D/O. LATE P.T. MATHEW, -DO-**

BY ADV. SRI.JOSE THETTAYIL

RESPONDENTS
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1. **SOBHA PRASAD,**
   NELLIYATTIL HOUSE,
   SENIOR GROUND, KUNNAMKULAM.

2. **BIJU N.P. S/O. N.A. PRASAD,**
   NELLIYATTIL HOUSE, SENIOR GROUND,
   KUNNAMKULAM.

3. **UNITED INDIA INSURANCE CO. LTD.,**
   KUNNAMKULAM BRANCH.

BY ADV. SRI.MATHEWS JACOB --- R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. Koshy & K.Hema, JJ.

M.F.A.No. 1261 of 2001

Dated this the 10th day of December, 2007

Judgment

Koshy, J.

Husband of the first appellant, at the age of 63, succumbed to the injuries sustained in a motor accident caused due to the negligence of the driver of the vehicle insured by the third respondent insurance company. Wife and children applied for compensation of Rs.3,00,000/-. Total compensation awarded was only Rs.95,000/-. Only quantum of compensation is disputed in this appeal.

2. Deceased was aged 63 at the time of accident. Therefore, tribunal has taken only 5 as the multiplier. Considering the multiplier fixed under the second schedule, we are of the opinion that no enhancement is needed on the multiplier. Deceased was a pharmacist by profession. Ext.A5 is the pharmacy certificate. He was employed in a medical store at the time of accident and owner of the medical store who issued Ext.A4 certificate was examined as PW3. It is stated in the certificate that the deceased was given a monthly salary of Rs.3,900/-. The tribunal did not

accept the same because accounts were not produced, but, we note that he was a qualified pharmacist and at least Rs.2,500/- ought to have been taken as the monthly income. If that be so, after deducting one-third as personal expenses, we fix Rs.1,650/- as the monthly loss of family dependency. Therefore, compensation payable will be Rs.99,000/- (Rs.1650 x 12 x 5). The tribunal awarded only Rs.60,000/- for loss of dependency. Therefore, claimants will be entitled to an additional amount of Rs. 39,000/- over and above the decreed amount by the tribunal. Even though it was argued that compensation granted under other heads are also inadequate, in the facts of the case, we are of the opinion that just and reasonable compensation was ordered under other heads. Third respondent insurance company is directed to deposit Rs.39,000/- with 7.5% interest from the date of application till its deposit. First appellant is allowed to withdraw the amount awarded on deposit of the compensation payable.

J.B.Koshy
Judge

K.Hema
Judge

vaa

J.B. KOSHY AND
K.HEMA,JJ.

M.F.A. No. 1261 of 2001

Judgment

Dated:10th December, 2007